IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.34595 of 2008
AKHILESH SAH
Versus
STATE OF BIHAR
With

Cr.Misc. No.38579 of 2008
NIZAMUDDIN
Versus

STATE OF BIHAR
- - - -

2. 9.9.2008 Heard.

None appears for petitioner Nizamuddin. Shri Dr.Amrendra Kumar No.1, Advocate appears for petitioner Akhilesh Sah.

Heard.

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Both the petitioners were caught at the spot by the police party and while the petitioner Akhilesh Sah was found in possession of a bomb petitioner Nizamuddin was found in possession of a country made gun. The case was registered under Sections 399, 402 and 414 of the Indian Penal Code and the relevant section of the Arms Act and the Explosive Substances Act.

The contention is that merely being found in possession with arms and ammunition or the explosive substance could not give rise to an inference that the petitioners and other

accused had assembled having made preparation for committing dacoity. It is contended that they might have prepared for committing more serious offence than that as alleged. As regards the recovery of bomb and country made arms, the contention is that both the petitioners belonged to different trades, petitioner Akhilesh Sah being a trader running a shop and petitioner Nizamuddin being a dancer in a band party and both of them were coming after discharging their business obligations back to their houses when the police picked up them and on account of some altercation and refusal to yield to the illegal design it is a transplant. It is contended that the petitioners are in custody since last eight months.

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Regard being had to the facts that the arms and ammunitions were recovered from the petitioners, I am not inclined to direct the release of the petitioners on bail.

Both the petitions are dismissed.

However, if the petitioners complete one year of confinement from the date of their remand, they shall be released from

custody on their furnishing bonds to the satisfaction of Sri Ashok Raj, Judicial Magistrate, Ist Class, Motihari, in Turkaulia P.S.Case No. 8 of 2008.

(Dharnidhar Jha, J.)

Kanth

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